Paper No. 28

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JEAN-MARC FEDELI,
ROBERT CUCHET, and
CELINE GERMAIN

Appeal No. 1998-1478
Application No. 08/517,604

HEARD: October 11, 2000

Before THOMAS, KRASS, and GROSS, Administrative Patent Judges.
GROSS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claim 2, which is the only claim pending in this application.

Appellants' invention relates to a magnetic head with a central insulating ridge. In the magnetic head, two pole pieces are each formed as a straight bar, and the magnetic flux concentrators each have an inclined portion bearing on

the central ridge. Claim 2 is illustrative of the claimed invention, and it reads as follows:

2. Magnetic head comprising:

a substrate;

a first subassembly comprising a lower magnetic layer resting on said substrate, two magnetic pillars resting on the magnetic layer, and a conductor winding surrounding said two magnetic pillars;

a central, insulating ridge, mounted on said first subassembly, having two sides inclined with respect to said substrate and a flat apex parallel to said substrate;

two magnetic flux concentrators having narrow inner ends bearing on said two inclined sides of the central, insulating ridge, said inner ends having a face parallel to said substrate and flush with the apex of the ridge, said magnetic flux concentrators having further wide outer ends bearing on said pillars; and

two pole pieces constituted by two straight bars having lower and upper faces parallel to said substrate, said lower face bearing on the flat apex of said ridge and on the face of said inner ends of said two concentrators, said pole pieces extending beyond said face of said inner ends of said two concentrators and overhanging said concentrators.

The prior art of record relied upon by the examiner in rejecting the appealed claim is:

Appellants' admitted prior art on page 1, line 10-page 3, line 5, of the specification and in Prior Art Figures 1-4. (APA)

Claim 2 stands rejected under 35 U.S.C. § 102(b) as being anticipated by APA.

Reference is made to the Examiner's Answer and three Supplemental Examiner's Answers for the examiner's complete

reasoning in support of the rejection, and to appellants' Brief, Reply Brief, and four Supplemental Reply Briefs for appellants' arguments thereagainst.

OPINION

We have carefully considered the claim, the applied prior art, and the respective positions articulated by appellants and the examiner. As a consequence of our review, we will reverse the anticipation rejection of claim 2.

Throughout the numerous Examiner's Answers, the examiner asserts that he is applying the "normal usage" of various terms in the claim. We disagree. As stated by appellants (Brief, page 6), "the [e]xaminer has improperly attempted to change the normal usage of various terms in order to make the prior art device meet the terms of the claims [sic, claim]."

For example, the examiner contends (Answer, page 5, First Supplemental Answer, page 2, Second Supplemental Answer, page 3, and Third Supplemental Answer, page 4) that the rectangular block

between magnetic flux concentrators 22_1 and 22_2 constitutes a ridge because it is an "upper section" relative to the insulating material below the concentrators, and thus meets

the dictionary definition. However, as explained by appellants (Brief, page 4) "the normal understanding of the word 'ridge' . . . implies an area which stands above the level of the rest of the material." In fact the examiner's dictionary defines a "ridge" as a "long narrow upper section or crest." As a crest is the topmost portion, reading the definition as a whole, we must conclude that a ridge is the uppermost section. Thus, although the rectangular block referenced by the examiner in combination with the trapezoidal portion above the rectangular block could be considered a ridge, the block alone cannot. The rectangular block is not an "upper section or crest" as required by the examiner's dictionary definition; it is the middle region.

The examiner asserts (First and Second Supplemental Answers, page 2) that the definition of the term "ridge" does not require that the ridge be the peak or highest point. We disagree, since the definition specifically says "upper section or crest." The examiner gives as an example that a mountain can have ridges where the ridges are not the peak of the mountain. We agree that there can be portions of the

mountain that are higher than the mountain's ridges. However, for each ridge, there is no portion directly above the ridge.

In addition, the examiner states (First and Second Supplemental Answers, page 3, and Third Supplemental Answer, page 4) that "claims must be 'given the broadest reasonable interpretation consistent with the specification'" and that the terms therein "must be given their 'plain meaning' unless they are defined in the specification." Then, the examiner insists that the present application fails to define the word "ridge." We agree with the examiner's statements, but we do not agree that the examiner has given reasonable interpretations that are consistent with the specification nor that there are no definitions in the specification. As explained above, the normal meaning of "ridge" is the uppermost section or crest, contrary to the examiner's interpretation. Further, appellants (at page 1, lines 14-15, and page 4, lines 31-34, of the specification) define each of ridges 19 and 29 of Figures 1 and 5, respectively, as having two inclined sides and a flat apex. Thus, the location and shape of the ridges is clearly defined. The examiner's interpretation is inconsistent with the disclosed definition,

and therefore is not the broadest reasonable interpretation consistent with the specification.

Of course, the examiner would have us believe that his interpretation is consistent with the specification, since he has read "inclined" as encompassing vertical, based on his dictionary definition (see Answer, page 6). However, again this interpretation is unreasonable, as the normal use of "inclined" denotes an oblique angle to the horizontal or vertical or, rather, at an angle to both the horizontal and vertical, as asserted by appellants (Brief, page 4). Therefore, again the examiner's reading of the claim is unreasonable and inconsistent with the normal usage of the terms.

Additionally, the examiner regards "straight" as only requiring that the bar for the pole piece be straight in one direction. Since Figure 2 shows pole pieces 24_1 and 24_2 as straight lines, the examiner concludes that they are straight bars. "Straight" is defined in The Random House College Dictionary, (1982), page 1297, as "1. without a bend, angle, or curve" or "2. exactly vertical or horizontal." Pole pieces 24_1 and 24_2 each have a bend or angle along both the top

surface and the side surface, as seen in Figure 1, and thus are not exactly vertical or horizontal. Therefore, although the plan view of the pole pieces 24_1 and 24_2, as shown in Figure 2, appears as a straight line, the pole pieces themselves are not straight on any side. Accordingly, APA fails to meet the limitation of the pole pieces being constituted by two straight bars.

"It is axiomatic that anticipation of a claim under § 102 can be found only if the prior art reference discloses every element of the claim." In re King, 801 F.2d 1324, 1326, 231 USPQ 136, 138 (Fed. Cir. 1986). See also Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co., 730 F.2d 1452, 1458, 221 USPQ 481, 485 (Fed. Cir. 1984). As detailed above, APA fails to meet every limitation of the claim without interpreting the terminology thereof in a manner that is unreasonable and contrary to its normal usage. Consequently, we cannot sustain the anticipation rejection of claim 2.

CONCLUSION

The decision of the examiner rejecting claim 2 under 35 U.S.C. § 102(b) is reversed.

REVERSED

JAMES D. THOMAS Administrative Patent Judge	)
ERROL A. KRASS Administrative Patent Judge	) BOARD OF PATENT APPEALS AND INTERFERENCES
ANITA PELLMAN GROSS Administrative Patent Judge	)

APG:hh

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